IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Misc. Writ Petition no. 456 (S/B) of 2002.

1- Union of India through Secretary (Posts),
Ministry of Communication, Dak Bhawan,
New Delhi.

2- Post Master General, Bareilly Region,
Bareilly.

3. Senior Superintendent of Post Offices,
Nainital Division, Nainital.

4- Post Master, Haldwani Head Office,
Nainital ……Petitioners.

Versus

1- Harish Chand Sharma S/o Jai Datt Sharma,
R/o Village Malli Bamori, P.O. Haldwani
District Nainital.

2- Bhawani Ram S/o Gulab Ram
R/o Teetagarh, Dilipsingh (Chandmari)
P.O. Kathgodam, District Nainital ….Respondents.

Sri Suresh Mishra, learned counsel for the petitioners.
Sri Nandan Arya, learned counsel for the respondents.

Coram: Hon'ble P.C. Verma,J.
Hon'ble B.C. Kandpal,J.

Dated: 07-06-2006

The petitioners have preferred the present writ petition for issue of a writ in the nature of certiorari quashing the order dated 5-2-2002 passed by the Central Administrative Tribunal, Allahabad Bench, Allahabad in Original Application No. 1052 of 1997, whereby the Original Application moved by the respondents was allowed and direction was issued to the petitioners for conversion of the posts of E.D. Chowkidar into the post of C.P. Chowkidar.

2- Brief facts of the case are that respondents Harish Chandra Sharma and Bhawani Ram were appointed on the posts of E.D. Chowkidar Haldwani Post Office on 27-7-1976 and 10-2-1979

respectively. The posts of E.D. Chowkidar were abolished in terms of the letter dated 1-11-1996 issued by the petitioner No.2, the Post Master General, Bareilly Region. The respondents challenged the validity of the aforesaid letter dated 1.11.1996 before the Central Administrative Tribunal by filing Original Application mainly on the ground that although two posts of E.D. Chowkidar at Post Office Haldwani were ordered to be abolished but the petitioner No.2 has failed to give the alternative employment to them on any E.D. posts or to convert the said posts of E.D. Chowkidar to the posts of C.P. Chowkidar in terms of the instructions contained in the letter dated 30-1-1990. The Central Administrative Tribunal, Allahabad Bench, Allahabad, having perused the material on record and hearing the learned counsel for the parties, allowed the Original Application and quashed the order dated 1-10-1997 passed by the petitioner No.2 and issued directions to pass necessary orders in terms of the letter dated 30-1-1990 regarding conversion of the posts of E.D. Chowkidar into the posts of C.P. Chowkidar within a period of three months.

3- Feeling aggrieved by the impugned order of the Central Administrative Tribunal, Allahabad Bench, Allahabad dated 5-2-2002, the Union of India has filed the present writ petition on the ground that there are no posts for C.P. Chowkidars in the Post Office at Haldwani and the posts held by the respondents in the capacity of E.D. Chowkidars cannot be converted in the cadre of C.P. Chowkidars. It was also alleged in the writ petition that in the letter dated 30-1-1990 it was provided and emphasized that as per R.C.R. Saboor's Committee Report staff attached to the post which was being abolished were not to be retrenched as per instructions issued by the higher authorities of the department time to time. It was also provided in the letter that such staff may be allowed to continue by converting these posts into contingency paid cadre and also that no staff of such category should be left without job. It was also alleged that in the instant case the petitioners had not retrenched the respondents and were continuously giving them job. However, in the circumstances of the case the Tribunal has failed to issue direction to convert the posts of E.D. Chowkidars into the

posts of C.P. Chowkidar. It was also alleged that if the assignment to the respondents is converted into C.P. Chowkidars the working hours allocated for them would be 5 hours instead of 8 hours as are allocated to the E.D. Chowkidars. As a result thereof the respondents shall get lesser amount than they are drawing in the capacity of E.D. Chowkidars. It was also alleged in the writ petition that the Tribunal has not made any clarification in respect of these discrepancies and anomalies and as such the impugned order is wrong and is liable to be dismissed.

4- The respondents filed the counter affidavit and denied the allegations of the writ petition. It was alleged that posts of E.D. Chowkidar in District Almora were converted into C.P. Chowkidar vide letter dated 8-9-1992 of the Senior Superintendent of Post Office Almora on the directions issued by the petitioner No.2 and the impugned order of the Central Administrative Tribunal, Allahabad Bench, Allahabad is correct.

5- We have heard the learned counsel for the parties and perused the record.

6- The record reveals that the respondent Nos. 1 and 2 were appointed on 27-7-1996 and 10-2-1979 respectively at Haldwani Post Office. However, the posts of E.D. Chowkidar were abolished in terms of the letter dated 1-11-1996 issued by the P.M.G. Bareilly Region (petitioner No. 2). The respondents challenged the validity of the letter dated 1.11.1996 before the Central Administrative Tribunal on the ground that although two posts of E.D. Chowkidar at Haldwani Post Office were ordered to be abolished, but the Post Master General, Bareilly Region has failed to give the alternative employment to the respondents on any E.D. Post or to convert said posts of E.D. Chowkidar to C.P. Chowkidar in terms of letter dated 30-1-1990. The letter dated 30-1-1990 runs as follows:-

> *"It has been brought into the notice of the Chief Post Master General, U.P. that certain posts of E.D. As. have been treated at dying cadre. The staff attached to these posts have been retrenched consequent upon abolition of such posts of EDAs in various postal Divisions of the Circle.*

The Staff attached to the posts which are to be abolished as per RCR Savoor's Committee Report are not to be retrenched as per instructions issued on the subject from time to time. Such staff may be allowed to continue by converting these posts into contingency paid cadre. No such staff should be left without job.

It is, therefore, again reiterated that E.D. Staff working on ED posts not prescribed by Savoor Committee should not be retrenched in any case, rather such posts may be converted into C.P. Cadre one the staff attached to these posts may be allowed to work on such converted C.P. posts. The Divisional Heads are requested to examine all such cases immediately in their Divisions and these instructions should be followed without exception. Any disregard to these instructions will be viewed seriously by the Chief PMG.

The receipt of this letter may kindly be acknowledged by return of posts."

7- Therefore, perusal of the aforesaid letter shows that it was necessary on the part of the petitioners to provide the alternative employment to the respondents or to convert the posts of E.D. Chowkidar into the Posts of C.P. Chowkidar. The counter affidavit filed by the respondent Nos. 1 and 2 shows that the P.M.G. Bareilly Region had taken action regarding the posts of E.D. Chowkidar by converting into the posts of C.P. Chowkidar in respect of District Almora vide letter dated 17-6–1992 which is contained in Annexure- No. 1 to the counter affidavit and it reveals from that letter that the P.M.G. Bareilly had directed the S.S.P. Almora Region to convert the posts of E.D. Chowkidar to the posts of C.P. Chowkidar in compliance of the letter dated 30-1-1990 referred above. The S.S.P. Almora Division in compliance of the aforesaid letter converted the posts of E.D. Chowkidar into the posts of C.P. Chowkidar vide order dated 8-9-1992.

8- It is thus quite clear that the petitioner No.2 who is Post Master General, Bareilly Region had passed an order with regard to the conversion of posts of E.D. Chowkidar into the posts of C.P. Chowkidar belonging to the Almora Division, hence the petitioners

are also bound to follow the same principle in the case of the respondents.

9- Learned Tribunal has rightly directed the petitioners to pass necessary orders in terms of the letter dated 30-1-1990 referred to above regarding the conversion of the posts of E.D. Chowkidar into the posts of C.P. Chowkidar vide impugned order dated 5-2-2002.

10- We do not find any infirmity in the impugned judgment and order dated 5-2-2002 passed by the Central Administrative Tribunal, Allahabad Bench, Allahabad.

11- The petition lacks merit and is liable to be dismissed.

12- Accordingly the writ petition is dismissed. No order as to costs.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

ISB